

Regular Meeting

The regular meeting of the City Council of the City of Fitchburg was held in the Memorial Middle School Library, 615 Rollstone St., Fitchburg, on January 7, 2016. The meeting was called to order by President Kushmerek at 7:00 P.M. The Clerk called the roll and eleven (11) members were present. The meeting opened with a salute to the Flag led by Councillor Bean.

Public Forum

PUBLIC FORUM

Fitchburg Police Chief Martineau spoke in favor of adopting Order 3-16.

Communication

His Honor the Mayor

COMMUNICATIONS

FROM HIS HONOR THE MAYOR

Appointment Letters

The following Letters of Appointment were received:



CITY OF FITCHBURG
MASSACHUSETTS
OFFICE OF THE MAYOR
STEPHEN L. DINATALE
MAYOR

Appr
AARON TOURIGNY
CHIEF OF STAFF TO THE MAYOR

JOAN DAVID
ADMINISTRATIVE AIDE

January 4, 2016

The Honorable City Council
Fitchburg Municipal Offices
166 Boulder Drive, Suite 108
Fitchburg, MA 01420

Dear Honorable Councilors,

I hereby appoint and ask for your confirmation of Mr. Clayton R. Raymond of 559 Shea Street, Fitchburg, MA, as a member of the Airport Commission for a term to expire on February 1, 2018.

Please feel free to contact me with any questions.


Sincerely,

Stephen L. DiNatale
Mayor

Cc: Scott Ellis

City of Fitchburg, January 7, 2016

Communication
His Honor the Mayor

Appointment
Letters (cont)



CITY OF FITCHBURG
MASSACHUSETTS
OFFICE OF THE MAYOR

STEPHEN L. DINATALE
MAYOR

AARON TOURIGNY
CHIEF OF STAFF TO THE MAYOR

FITCHBURG CITY CLERK
JOAN DAVID
ADMINISTRATIVE AIDE
16 JAN - 7 12 22

January 7, 2016

Anna Farrell
City Clerk
Fitchburg Municipal Offices
166 Boulder Drive, Suite 108
Fitchburg, MA 01420

Dear Honorable Councilors,

This is a supplemental letter informing you that my recent appointments to the Airport Commission of Mr. Clayton Raymond will fill the seat of Mr. Steven Brousseau, and Mr. Richard Liberatore will fill the seat of Mr. Joseph Poznick.

Please feel free to contact me with any questions.

Sincerely,

Stephen L. DiNatale
Mayor

Cc: Scott Ellis

Communication
His Honor the Mayor

Appointment
Letters (cont)



CITY OF FITCHBURG
MASSACHUSETTS
OFFICE OF THE MAYOR

STEPHEN L. DINATALE
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AARON TOURIGNY
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January 4, 2016

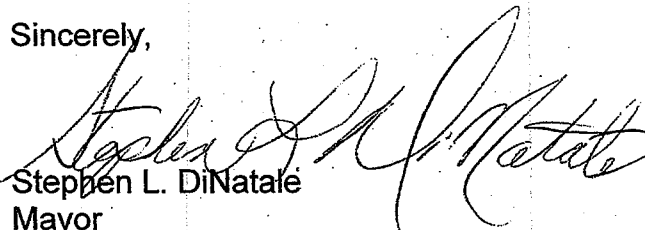
The Honorable City Council
Fitchburg Municipal Offices
166 Boulder Drive, Suite 108
Fitchburg, MA 01420

Dear Honorable Councilors,

I hereby appoint and ask for your confirmation of Mr. Richard Liberatore of 404 Westminster Hill Road, Fitchburg, MA, as a member of the Airport Commission for a term to expire on July 1, 2016.

Please feel free to contact me with any questions.

Sincerely,


Stephen L. DiNatale
Mayor

Cc: Scott Ellis

City of Fitchburg, January 7, 2016

Communication
His Honor the Mayor

Appointment
Letters (cont)



CITY OF FITCHBURG
MASSACHUSETTS
OFFICE OF THE MAYOR
STEPHEN L. DINATALE
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AARON TOURIGNY
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FITCHBURG CITY CLERK
JOAN DAVID
ADMINISTRATIVE AIDE
16 JAN -7 12 22

January 7, 2016

The Honorable City Council
Fitchburg Municipal Offices
166 Boulder Drive, Suite 108
Fitchburg, MA 01420

Dear Honorable Councilors,

I hereby appoint and ask for your confirmation of Ms. Donna Pawlak of 509 Mechanic Street, Fitchburg, MA, as a member of the Board of License Commissioners, to fill the balance of the appointment of Vincent Pusateri, set to expire on June 1, 2018.

Please feel free to contact me with any questions.

Sincerely,

Stephen L. DiNatale
Mayor

Communication
His Honor the Mayor

Appointment
Letters (cont)



CITY OF FITCHBURG
MASSACHUSETTS
OFFICE OF THE MAYOR
STEPHEN L. DINATALE
MAYOR
16 JAN -7 12 22

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AARON TOURIGNY
CHIEF OF STAFF TO THE MAYOR

JOAN DAVID
ADMINISTRATIVE AIDE

January 7, 2016

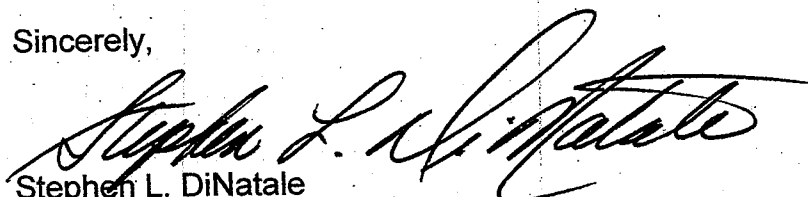
Anna Farrell
City Clerk
Fitchburg Municipal Offices
166 Boulder Drive, Suite 108
Fitchburg, MA 01420

Dear Ms. Farrell,

I hereby appoint Mr. Daniel Sarfield of 38 Rogers Ave, Fitchburg, MA, as Chairman of the Board of License Commissioners, to fill the balance of the appointment set to expire on May 1, 2020.

Please feel free to contact me with any questions.

Sincerely,


Stephen L. DiNatale
Mayor

Cc: Fitchburg City Council
Board of License Commissioners
Daniel Sarfield

FITCHBURG MUNICIPAL OFFICES
166 BOULDER DRIVE, SUITE 108, FITCHBURG, MA 01420 ♦ PHONE: (978) 829-1801 ♦ FAX: (978) 829-1968

Appointments read and referred to the Appointments Committee.

Communication
City Solicitor
RE: Petition #233-15

COMMUNICATION
FROM CITY SOLICITOR PUSATERI
Re: Petition #233-15

Special permit criteria

181.3 USE REGULATIONS

181.31 PRINCIPAL USES. No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations (Section 181.313), including the notes to the Schedule, or as otherwise set forth herein, or as exempted by General Laws. Any building or use of premises not herein expressly permitted is hereby prohibited. Not more than one principal use shall be allowed on any lot, except as otherwise may be provided herein.

181.311 Symbols. Symbols employed in the Table of Use Regulations shall mean the following:

- Y -- A permitted use.
- N -- An excluded or prohibited use.
- CC -- A use authorized under special permit from the City Council as provided under Section 181.93.
- PB -- A use authorized under special permit from the Planning Board as provided under Section 181.93.
- BA -- A use authorized under special permit from the Board of Appeals as provided under Section 181.93.

181.312 Applicability. When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

Communication

City Solicitor
Re: Petition #233-15
(cont)

181.313 Table of Principal Use Regulations.

TABLE OF PRINCIPAL USE REGULATIONS
[SEE SECTION 181.10, FOR DEFINITIONS OF USES]

SYMBOLS:
Y = Permitted Use
N = Prohibited Use
CC = Special Permit from City Council
PB = Special Permit from Planning Board
B4 = Special Permit from Board of Appeals

D I S T R I C T S

PRINCIPAL USE:	RR	RA-1	RA-2	RB	RC	CBD	NBD	C&A	LI	I	MS	FSC
A. RESIDENTIAL USES												
1. Single-family dwelling	Y	Y	Y	Y	Y	PB	PB	PB	N	N	N	Y
2. Two-family dwelling	N	N	N	Y	Y	PB	PB	PB	N	N	N	PB
3. Three-family dwelling	N	N	N	Y PB*	Y PB*	PB	PB	PB	N	N	N	PB
4. Multifamily housing	N	N	N	PB Y PB**	PB Y PB**	PB	PB	PB	N	N	N	PB
5. Lodging or boarding house	N	N	N	N	BA	N	N	N	N	N	N	PB
6. Assisted or Independent Living Facility	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
7. Flexible development	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
8. Planned Unit Development	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB

*Amended July 7, 2004
**Amended September 21, 2005

Communication .
City Solicitor
Re: Petition #233-15
(cont)

PRINCIPAL USE:	RR	RA-1	RA-2	RB	RC	CBD	NBD	C&A	LI	I	MS	FSC
B. EXEMPT AND INSTITUTIONAL USES												
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3. Family day care home, small	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4. Family day care home, large	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	Y
5. Adult day care facility	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
6. Child care facility	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
8. Cemetery	BA	BA	BA	BA	BA	N	N	N	N	N	N	N
9. Municipal facilities	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
10 Airport	PB	N	N	N	N	N	N	N	PB	PB	N	N

Communication
City Solicitor

Re: Petition #233-15
(cont)

PRINCIPAL USE:	RR	RA-1	RA-2	RB	RC	CBD	NBD	C&A	LI	I	MS	FSC
11 Essential services	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
12. Hospital	BA	BA	BA	BA	BA	BA	BA	N	BA	N	Y	BA
C. COMMERCIAL USES												
1. Nonexempt agricultural use	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
2. Nonexempt farm stand for wholesale or retail sale of products	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
3. Nonexempt educational use	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
4. Veterinary care	BA	N	N	N	N	N	N	Y	N	N	N	N
5. Commercial kennel	N	N	N	N	N	BA	BA	BA	BA	BA	N	N
6. Lodge or club	N	N	N	N	N	Y	Y	Y	PB	N	N	Y
7. Nursing home	PB	PB	PB	PB	Y	PB	PB	N	N	N	Y	Y
8. Funeral home	N	N	N	PB	PB	Y	Y	Y	N	N	N	Y
9. Hotel, Inn or Motel	N	N	N	N	N	Y	N	Y	PB	PB	N	Y
10. Retail stores and services not elsewhere set forth	N	N	N	BA	BA	Y	Y	Y	N	N	N	PB
10A Garden Center, florist or commercial greenhouse with or without open-air display of products	N	N	N	Y	Y	Y	N	N	N	N	N	PB
10B. Other open-air retail sales	N	N	N	BA	BA	BA	N	N	N	N	N	PB

Communication
City Solicitor

Re: Petition #233-15
(cont)

PRINCIPAL USE:	RR	RA-1	RA-2	RB	RC	CBD	NBD	C&A	LI	I	MS	FSC
11. Motor vehicle and equipment sales	N	N	N	N	N	BA	N	Y	N	N	N	N
12. Motor vehicle repair or body shop	N	N	N	N	N	BA	N	Y	N	N	N	N
13. Motor vehicle service station or car wash	N	N	N	N	N	BA	N	Y	BA	BA	N	N
13A. Motor vehicle fuel dispensing station	N	N	N	N	N	BA	BA	Y	BA	BA	N	N
14. Restaurant	N	N	N	BA	BA	Y	Y	Y	PB	PB	N	PB
14A. Seasonal outdoor dining	N	N	N	Y	Y	Y	Y	N	N	N	N	PB
15. Restaurant, fast-food	N	N	N	N	N	PB	PB	PB	PB	PB	N	PB
16. Business or professional office, including medical	N	N	N	BA	BA	Y	Y	Y	Y	Y	PB	Y
17. Bank, financial agency	N	N	N	BA	BA	Y	Y	Y	Y	Y	N	Y
18. Amusement facility	N	N	N	N	N	CC	N	CC	N	N	N	PB
19. Commercial recreation	N	N	N	N	N	CC	CC	CC	CC	CC	N	PB
20. Golf course	BA	BA	BA	BA	BA	BA	N	N	BA	BA	BA	N
21. Personal service establishment	N	N	N	N	BA	Y	Y	Y	N	N	PB	PB
22. General service establishment	N	N	N	N	N	Y	Y	Y	BA	BA	N	PB
23. Adult use	N	N	N	N	N	CC	N	CC	CC	CC	N	N

Communication
City Solicitor

Re: Petition #233-15
(cont)

PRINCIPAL USE:	RR	RA-1	RA-2	RB	RC	CBD	NBD	C&A	LI	I	MS	FSC
24. Wireless Communications Facility (SEE SECTION 181.62)												
25. Building trade shop	N	N	N	N	N	Y	Y	Y	Y	Y	N	N
26. Commercial parking facility	N	N	N	PB	PB	Y	Y	Y	PB	PB	N	Y
27. Bed and Breakfast	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA
D. INDUSTRIAL USES												
1. Earth removal or timber harvesting	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	N
2. Light manufacturing	N	N	N	N	N	PB	PB	PB	Y	Y	N	N
3. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	N	N	N	N	N	N	N	PB	Y	Y	N	N
4. Manufacturing	N	N	N	N	N	PB	N	PB	Y	Y	N	N
5. Construction yard	N	N	N	N	N	N	N	BA	N	BA	N	N
6. Vehicle salvage yard	N	N	N	N	N	N	N	BA	N	BA	N	N
7. Transportation terminal	N	N	N	N	N	N	N	Y	N	CC	Y	N
8. Lumberyard	N	N	N	N	N	N	N	Y	N	Y	N	N
9. Research and testing	N	N	N	N	N	PB	PB	PB	PB	Y	Y	N
10. Publishing and printing	N	N	N	N	N	Y	Y	Y	Y	Y	N	BA

Communication
City Solicitor

Re: Petition #233-15
(cont)

<i>PRINCIPAL USE:</i>	RR	RA-1	RA-2	RB	RC	CBD	NBD	C&A	LI	I	MS	FSC
11. Computer software development	N	N	N	PB	PB	Y	Y	Y	Y	Y	N	Y
12. Computer hardware development	N	N	N	N	N	PB	PB	Y	Y	Y	N	Y
13. Antenna transmission	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
E. OTHER USES												
1. Open air storage	N	N	N	N	N	N	N	BA	Y	Y	N	N
2. Open-air storage of junk, including inoperable motor vehicles, except in an approved auto salvage yard, except that the Zoning Board of Appeals may issue a special permit for the storage of bona fide antique vehicles if such storage is not visible from abutting properties or public ways	N	N	N	N	N	N	N	N	N	N	N	N
3. Dumping of residential, commercial or industrial waste	N	N	N	N	N	N	N	N	N	N	N	N
4. Access through more restricted district to reach portion of same lot located in less restricted district	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB
5. Mobile Homes unless legally existing at the time of adoption of this chapter or exempt under MGL C.40A, Section 3	N	N	N	N	N	N	N	N	N	N	N	N

Communication
City Solicitor

Re: Petition #233-15
(cont)

181.32 ACCESSORY USES

Accessory uses shall be permitted in all districts on the same lot with the principal use, subject to the following sections.

181.321 Residential Districts. The following regulations govern accessory uses in the residential districts:

181.3211. *Private Garage.* A private garage or carport for not more than four (4) motor vehicles per unit, solar system, greenhouse, tool shed, barn, patio, garden, swimming pool or tennis court, provided that such facilities are used only by the residents and their guests.

181.3212. *Home Occupation.* See Section 181.33.

181.3213. *Renting of Rooms or Boarding.* The renting of rooms or boarding for not more than two (2) persons, except that, by special permit from the Board of Appeals, the renting of rooms or boarding to more than two (2) persons may be allowed. In either case, the service shall be operated by a resident owner of the premises.

181.3214. *Small Family Day Care.* Family child-care home for six (6) or fewer children if licensed by the Commonwealth of Massachusetts Office for Children.

181.3215. *Large Family Day Care.* A child-care center of more than six (6) children may be authorized by a special permit from the Zoning Board of Appeals.

181.3216. *Prohibited Residential Accessory Uses.* The following accessory uses are prohibited:

- a. Contractor's yard.
- b. Landscaping business.
- c. Motor vehicle repair or service.

181.322 Institutional Districts. Accessory uses permitted in the Institutional districts (MS & FSC) shall be as follows:

181.3221. *Parking.* Parking for employers, employees, customers and other users of the institution.

Communication.
City Solicitor

Re: Petition #233-15
(cont)

181.3554. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

181.3555. alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

181.356 Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning Ordinance, unless a special permit is issued pursuant to Section 181.3561, below.

181.3561. *Special Permit for Nonconforming Structures Abandoned or Not Used for More than Two Years.* Notwithstanding the provisions of G.L. c. 40A, s. 6, the City Council may grant a special permit authorizing the reconstruction, alteration, or rehabilitation, and occupancy and use of a nonconforming structure that has been abandoned or not used for a period of more than two years. To be eligible for such special permit, the structure must have architectural or other features deemed appropriate for rehabilitation by the City Council.

181.357 Reconstruction after Catastrophe or Demolition. A nonconforming structure may be reconstructed after a catastrophe or after demolition, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within two years after such catastrophe or demolition, and provided that the building(s) as reconstructed shall have no greater violation of setback, yards, lots coverage or height as existed on the lot prior to demolition, provided further that in any event the new side yard setbacks shall not be less than five feet. In the event that the proposed reconstruction would cause the structure to exceed these limits, a special permit shall be required from the Board of Appeals.

181.358 Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

Communication
City Solicitor

Re: Petition #233-15
(cont)

181.9122. *Non-criminal disposition.* In addition to the provisions for enforcement of the Zoning Ordinance described in Section 181.9121, the provisions of the Zoning Ordinance may also be enforced by and in the discretion of the Building Commissioner, by a non-criminal complaint filed in the District Court or Worcester County Housing Court pursuant to the provisions of G.L. c. 40, s.21D. Each day on which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of the Zoning Ordinance pursuant to this paragraph shall be fifty dollars (\$50.00) for the first offense; seventy-five dollars (\$75.00) dollars for the second offense; one hundred dollars (\$100.00) for the third offense; and one hundred twenty-five dollars (\$125.00) for the fourth and each subsequent offense.

181.913 *Penalties.* The penalty for violation of any provision of this ordinance, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

181.92 BOARD OF APPEALS

181.921 *Establishment.* The City of Fitchburg Board of Appeals is hereby designated as the Board of Appeals required by the Zoning Act of the Commonwealth of Massachusetts. The Board of Appeals shall consist of five (5) members with two (2) associate members, who shall all be residents of the City of Fitchburg. At least one (1) member shall be a member of the Bar. Each member shall be appointed by the Mayor, subject to confirmation by the City Council, for terms of five (5) years and the appointments shall be so arranged that the term of one (1) member shall expire each year. Vacancies, removals and other organizational matters shall be governed by G.L. c. 40A, s. 12.

181.922 *Powers.* The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws of the Commonwealth and by this ordinance. The Board's powers are as follows:

181.9221. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 181.93, or as otherwise specified.

181.9222. To hear and decide appeals or petitions for variances from the terms of this ordinance, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances in the Residential Districts.

181.9223. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 7, 8 and 15.

Communication,
City Solicitor

Re: Petition #233-15
(cont)

181.9224. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

181.923 Conditions. Variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the board of appeals may deem necessary to serve the purposes of this ordinance. Such conditions may include, but are not limited to: private disposal of waste; deadline to commence construction; signage; alarm system; limits on vehicles, number of students, gender of residents, noise, possession of substances; maintenance requirements; landscaping, parking spaces; dust control; term for years with or without automatic renewals; sewer connection; bond.

181.924 Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

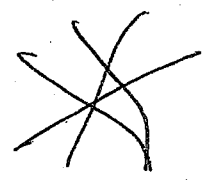
181.925 Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

181.93 SPECIAL PERMITS

181.931 Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.

181.932 Criteria. Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the city and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this ordinance, the determination shall include consideration of each of the following:

- 181.9321. Social, economic, or community needs which are served by the proposal;
- 181.9322. Traffic flow and safety, including parking and loading;
- 181.9323. Adequacy of utilities and other public services;
- 181.9324. Neighborhood character and social structures;
- 181.9325. Impacts on the natural environment, including drainage; and
- 181.9326. Potential fiscal impact, including impact on city services, tax base, and employment.



Communication
City Solicitor

Re: Petition #233-15
(cont)

181.933 Procedures. Applicants shall file with the City Clerk the number of copies of the special permit application and plans, and follow the procedures as listed in the Special Permit Granting regulations.

181.9331. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.

181.9332. The special permit granting authority shall notify applicants by registered mail, within 14 days of submittal, of incomplete application status, and the applicant shall have 14 days from the mailing of such notice to complete an application. Failure to complete an application within such time or to file plans with the agencies or officials set forth above shall be deemed nonsubmittal of the application, without prejudice.

181.9333. Reports from other boards and officials shall be submitted to the special permit granting authority by the date of the public hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto.

181.9334. In the event that the public hearing by the special permit granting authority is held prior to the expiration of the 35 day period, said authority shall continue the Public Hearing to permit the formal submission of reports and recommendations within that 35 day period.

181.9335. The provisions of this Section 181.933 shall not apply to applications for special permits to reconstruct, extend, alter, or structurally change a nonconforming single or two family structure. The Board of Appeals may adopt regulations to establish procedures governing the form of such applications.

181.934 Plans and Other Submittals. Unless waived by the Special Permit Granting Authority, an applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 181.94, herein. At the discretion of the special permit granting authority, the submittal of a development impact statement (DIS) may be required. The DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Professional or Civil Engineer, and a Registered Surveyor.

Communication
City Solicitor

Re: Petition #233-15
(cont)

181.9341. *Physical Environment.*

(a) Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over 16 inches in diameter, trails and open space links, and indigenous wildlife.

(b) Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

181.9342. *Surface Water and Subsurface Conditions.*

(a) Describe location, extent, and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.

(b) Describe any proposed alterations of shore lines, marshes, or seasonal wet areas.

(c) Describe any limitations imposed on the project by the site's soil and water conditions.

(d) Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

181.9343. *Circulation Systems.*

(a) Project the number of motor vehicles to enter or depart the site per average day and peak hour. Also state the number of motor vehicles to use streets adjacent to the site per average day and peak hour. Such data shall be sufficient to enable the special permit granting authority to evaluate: (i) existing traffic on streets adjacent to or approaching the site, (ii) traffic generated or resulting from the site, and (iii) the impact of such additional traffic on all ways within and providing access to the site. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

181.9344. *Support Systems.*

(a) *Water Distribution:* Discuss the types of wells or water system proposed for the site, means of providing water for fire-fighting, and any problems unique to the site.

(b) *Sewage Disposal:* Discuss the type of on-site or sewer system to be used, suitability of soils, procedures and results of percolation tests, and evaluate impact of disposal methods on surface and groundwater.

(c) *Refuse Disposal:* Discuss the location and type of facilities, the impact on existing city refuse disposal capacity, hazardous materials requiring special precautions.

Communication
City Solicitor

Re: Petition #233-15
(cont)

(d) *Fire Protection*: Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing fire fighting equipment to confront potential fires on the proposed site.

(e) *Recreation*: Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.

(f) *Schools*: Project the increase to the student population for nursery, elementary, junior high school, and high school levels, also indicating present enrollment in the nearest public schools serving these categories of students.

181.9345. *Phasing*. Where development of the site will be phased over more than one (1) year, indicate the following:

(a) Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.

(b) Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

181.935 *Conditions*. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this ordinance. Such conditions may include, but are not limited to: private disposal of waste; deadline to commence construction; signage; alarm system; limits on vehicles, number of students, gender of residents, noise, possession of substances; maintenance requirements; landscaping, parking spaces; dust control; term for years with or without automatic renewals; sewer connection; bond; limitation to the term of ownership or use by the applicant.

181.936 *Lapse*. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the City Clerk.

181.937 *Regulations*. The special permit granting authority may adopt rules and regulations for the administration of this section.

181.938 *Fees*. The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

FITCHBURG ZONING ORDINANCE

Communication read and placed on file with Petition#233-15.

City of Fitchburg,..... January 7, 2016

Communication
Michael O'Hara
Principle Planner
Re: Petition #233-15
(cont)

COMMUNICATION
MICHAEL O'HARA, PRINCIPLE PLANNER
Re: Petition #233-15



CITY OF FITCHBURG
PLANNING BOARD

301 BROAD STREET FITCHBURG CITY CLERK
FITCHBURG, MASSACHUSETTS 01420

(978) 829-1891
PHONE

(978) 345-9687
FAX

16 JAN -4 10 16

*Refer
233-15*

MEMO

DATE: January 4, 2015
TO: City Council
City Clerk
FROM: Michael O'Hara, Principal Planner *M O'Hara*
SUBJECT: Petition #233-2015
Proposed Zoning amendment –
non-conforming 1- and 2-family dwellings

After a required public hearing at its December 15, 2015 meeting the Fitchburg Planning Board voted 4-0 to recommend in favor of this amendment, which they initiated.

Communication

Pension Reserves
Investment
Management

COMMUNICATION
PENSION RESERVES INVESTMENT MANAGEMENT



Pension Reserves Investment Management Board

84 State Street, Suite 250
Boston, Massachusetts 02109

Deborah B. Goldberg, Treasurer and Receiver General, Chair
Michael G. Trolsky, CFA, Executive Director

Fitchburg Retirement System
General Allocation Account
November 01, 2015 to November 30, 2015

	Month To Date	Fiscal Year To Date	Calendar Year To Date
Your beginning net asset value for the period was:	98,113,849.29	92,975,211.21	96,679,329.89
Your change in investment value for the period was:	(494,049.97)	(1,004,391.45)	1,291,489.87
Your exchanges from (to) the Cash Fund for the period were:	(1,000,000.00)	4,648,979.56	(1,351,020.44)
Your ending net asset value for the period was:	96,619,799.32	96,619,799.32	96,619,799.32

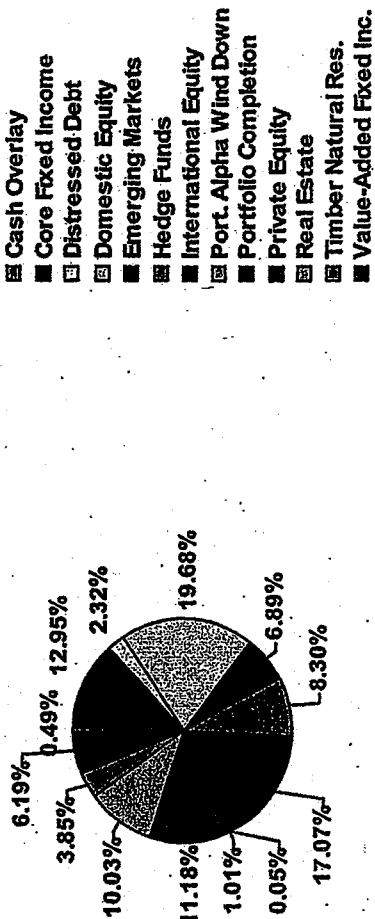
Net Change in Investment Value represents the net change through investment activities as follows:

Gross Investment Income:	152,446.40	910,888.08	2,227,181.65
Less Management Fees:	(13,336.72)	(145,384.93)	(389,490.45)
Net Investment Income:	139,109.68	765,503.15	1,837,691.20
Net Fund Unrealized Gains/Losses:	(836,098.50)	(2,548,323.64)	(3,554,248.51)
Net Fund Realized Gains/Losses:	202,938.85	778,429.04	3,008,047.18
Net Change in Investment Value as Above:	(494,049.97)	(1,004,391.45)	1,291,489.87

As of November 30, 2015 the net asset value of your investment in the PRIT Fund was: \$96,619,799.32

PRIT Fund Core Asset Allocation

As of November 30, 2015



15 DEC 22 11 30
FITCHBURG CITY CLERK

Communication read and placed on file in the City Clerk's Office.

If you have any questions regarding your statement, please contact your Senior Client Services Officer Paul Todisco (617) 946-8423.
A detailed statement of your account is attached to this summary sheet.

RECESSED HEARING

094-15. The Fitchburg City Council, pursuant to the unanimous, affirmative vote on April 22, 2015, on petition 38-15, filed by Councillor Stephan Hay, does now propose that Chapter 181-Zoning-of the Code of the City of Fitchburg be amended to create a solar farm component.

Hearing resumed and continued to March 15, 2016 by unanimous vote. 111 members present. Board consists of 11 members.

HEARING

233-15. Michael J. O'Hara, per vote of the Fitchburg Planning Board:
Proposed Zoning Ordinance amendment, initiated by vote of Fitchburg Planning Board:

To Amend Fitchburg Zoning Ordinance as follows:

(1) Amend Section 181.356, Abandonment or Non-Use, by adding:

"This section shall not apply to the re-use of a lawfully existing nonconforming single or two-family structure where the principal use is permitted by right in the specified district under 181.313, and provided that no modification of the use or structure is accomplished unless authorized under the provisions of 181.35."

(2) Amend Section 181.3561 by striking the words "City Council" and inserting the words "Board of Appeals"

Hearing held. Michael O'Hara, Principle Planner on behalf of the Planning Board was present. Discussion regarding possible risk to occupants allowed to enter building that may not be up to code; how the proposed changes to the zoning ordinance may affect existing petitions, the building department process when it reviews the applications and the criteria that the Special Permit granting authority should consider during review.

No one spoke in favor of or in opposition to the petition. Hearing closed and petition granted by vote of 10 in favor and 1 opposed (Beauchemin). 11 members present. Board consists of 11 members.

Petition forwarded to the City Solicitor for Ordinance preparation January 9, 2016.

LOAN ORDERS

229-15. Ordered, the Loan Order 153-2014 adopted by this Council on July 1, 2014 which authorized a borrowing of \$23,000,000 for sewer system projects, is hereby amended in its entirety to read as follows:

That the sum of Thirty-Four Million One Hundred Thousand Dollars (\$34,100,000) be and hereby is appropriated to pay the cost of various wastewater projects including, but not limited to design, support technical services, Owner's Project Manager, bidding and construction administration services, and construction related to upgrades to the secondary treatment system and appurtenant equipment at the East Fitchburg Wastewater Treatment Facility (EFWWTF), evaluation, design, and construction of building modifications and repairs to the process and outlying

Recessed Hearing

Petition #94-15

Hearing

Petition #233-15

Loan Orders
#229-15

Loan Orders

#229-16 (cont)

building(s), ongoing repair and rehabilitation of the sewer system infrastructure, and including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as amended; and to meet said appropriation the Treasurer with the approval of the Mayor is authorized to borrow said amount and issue bonds or notes therefor under G.L. c.44 or any other enabling legislation and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor or Treasurer is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes."

(Amended to \$31.25 Million Dollars)

Loan Order was sent to a final reading, adopted and ordered advertised by roll call vote of 10 in favor and 1 opposed (DiNatale). 11 members present. Board consists of 11 members. Loan Order signed by the Mayor January 11, 2016.

#230-15

230-15. ORDERED THAT: The City of Fitchburg is authorized the appropriation and borrowing of \$4 Million Dollars for Sewer System Projects and ongoing Repair and Rehabilitation of the Sewer System Infrastructure.

"Ordered, that the sum of Four Million Dollars (\$4,000,000) be and hereby is appropriated to pay the cost of sewer separation projects and ongoing repair and rehabilitation of the sewer system infrastructure in the City, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as amended; and to meet said appropriation the Treasurer with the approval of the Mayor is authorized to borrow said amount and issue bonds or notes therefor under G.L. c.44 or any other enabling legislation and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to

Loan Orders

#230-15 (cont)

Chapter 29C and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor or Treasurer is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes."

Loan Order was sent to a final reading, adopted and ordered advertised by roll call vote of 10 in favor and 1 opposed (DiNatale). 11 members present. Board consists of 11 members. Loan Order signed by the Mayor January 11, 2016.

ORDERS-FINANCE

Orders-Finance

- 3 -16. ORDERED THAT: The City of Fitchburg hereby approves the expenditure of funds from the Commonwealth of Massachusetts Executive Office of Public Safety and Security Office of Grants, for three grants, and their respective approximate amounts and purposes, as follows:
FY16 Pedestrian Safety Grant - \$5,000
FY16 HSD UAE (Traffic Safety) Grant - \$10,000
FY16 GHSB (Governor's Highway Safety Bureau) Grant - \$9,000
- 4 -16. ORDERED THAT: the City of Fitchburg hereby approves the expenditure of funds from the MA Dept. of Environmental Protection, for the Mass DEP Sustainable Materials Recovery Program (SMRP)-School Recycling Grant, in the approximate amount of \$40,670 for said purposes of grant.
- 5 -16. ORDERED THAT: the City of Fitchburg hereby approves the gift from ReImagine North of Main Group valued at \$24,700 to allow and enable the Fitchburg Health Department to install ViewInspect and ViewNForce modules/software on the Health Inspectors' tablets.

Orders adopted under Suspension of the Rules by unanimous vote. 11 members present. Board consists of 11 members. Orders signed by the Mayor January 11, 2016.

Ordinance
Final Reading
#247-15

ORDINANCE

247-15. AN ORDINANCE: Amending Chapter 181 of the Code of the City of Fitchburg entitled Zoning: (Registered Marijuana Dispensary) as outlined in the enclosed Ordinance and accompanying Zoning Map.
(Reference Petition #165-15)

CITY OF FITCHBURG

IN THE YEAR

FITCHBURG CITY CLERK

15 DEC 10 09 59

AN ORDINANCE

Be it ordained by the City Council of the City of Fitchburg, as follows:

Amend Chapter 181 of the Code of the City of Fitchburg entitled "Zoning" and accompanying Zoning Map as follows:

Be it Ordained by the City Council of the City of Fitchburg that the Code of the City of Fitchburg-Zoning as amended, be further amended as follows;

1) Amend Section 181.10 Definitions by adding the following:

REGISTERED MARIJUANA DISPENSARY (RMD) – also known as a Medical Marijuana Treatment Center, is an establishment approved and licensed by the Massachusetts Department of Public Health (MDPH) pursuant to 105 CMR 725.000, owned and operated by a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as marijuana-infused products ("MIPs"), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall not be eligible as a "non-exempt agricultural use" or as a "non-exempt educational use" and shall only be permitted as allowed in accordance with City of Fitchburg Zoning Ordinance. Further, the following definitions shall apply for the purposes of distinguishing the permitting and regulation of RMD dispensing uses from RMD cultivation uses within this Ordinance:

a) Medical Marijuana Dispensary (MMD) facility – A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of MDPH regulations 105 CMR 725.000.

b) Medical Marijuana Manufacturing (MMM) facility – A Registered Marijuana Dispensary that is located off-site from the dispensing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to cultivate and process marijuana, and marijuana infused products in accordance with the provisions of MDPH regulations 105 CMR 725.000.

2) Amend Section 181.22 Overlay Districts creating MMD district for the siting of a dispensary.

181.22 OVERLAY DISTRICTS. In addition, the following overlay districts are also hereby established:

Medical Marijuana Dispensary Overlay MMDO

3) Amend Section 181.23 and Zoning Map to include MMDO district areas.

181.23 MAP. These districts are shown, defined and bounded on the map accompanying this Ordinance entitled "City of Fitchburg Zoning Map Adopted July 17, 2001," as amended. This map, including overlays, shall be on file in the City Clerk's office. Said Zoning Map and amendments thereto as shall be duly adopted shall be considered an integral part of this Ordinance.

4) Amend Sections 181.33 Home Occupations, by adding a new section 181.333 as follows:

181.333 Prohibited Home Occupations;

Registered Marijuana Dispensary (RMD) or similar facility.

5) Amend Section 181.512 Table of Off-Street Parking by adding a newline in "E. Other Uses" as follows:

"5. Registered Marijuana Dispensary (RMD) – Adequate parking spaces to accommodate under normal circumstances the motor vehicles of the employees and visitors to the premises as may be determined by the Planning Board."

6) Amend Section 181.94 Site Plan Review requirement by adding the following:

181.941 Applicability. The following types of activities and uses require site plan review by the Planning Board:

181.9414. Siting, construction or expansion of a Registered Marijuana Dispensary (RMD).

7) Insert a new Section 181.64 as follows;

181.64 Registered Medical Marijuana Dispensary (MMD) and Registered Medical Marijuana Manufacturing (MMM) facilities

181.641 Establishment: The Medical Marijuana Dispensary Overlay District ("MMDO") is established as an overlay district for MMD facility dispensing and retail sales. The boundaries of the MMDO are shown on the Zoning Map on file with the City Clerk. Within the MMDO, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMDO may be used either for (1) a Registered Medical Marijuana Dispensary (MMD), in which case the requirements set forth in this section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMDO are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMDO conflict with the requirements of the underlying district, the requirements of the MMDO shall control.

181.642 Purpose: It is recognized that the nature of the substance cultivated, processed, and/or sold by Registered Marijuana Dispensary (RMD) may have objectionable operational characteristics and should

Ordinance
Final Reading

#247-15 (cont)

be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Medical Marijuana Dispensaries (hereafter referred to as a MMD) and Medical Marijuana Manufacturing (hereafter referred to as MMM) facilities is necessary to advance these purposes and to provide for the limited establishment of MMDs and MMMs they are authorized pursuant to state regulations set forth at 105 CMR 725.000, and in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. Given that MMDs and MMMs shall be limited in number and strictly regulated by the Massachusetts Department of Public Health, these zoning regulations intend to permit them in locations suitable for lawful medical marijuana facilities where there is access to regional roadways, where they may readily be monitored by law enforcement for health and public safety purposes, and to minimize adverse impacts on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of MMDs and MMMs.

181.643 Definitions: Where not expressly defined in the Zoning Ordinance, terms used in the MMD and MMM Ordinance shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

181.644 Special Permit Criteria. MMDs for dispensing and retail sales may be permitted in the MMDO pursuant to a Special Permit and Site Plan Review granted by the Planning Board. MMMs for manufacturing uses may be permitted in the Industrial and Light Industrial zoning districts in accordance with 181.313 Table of Principal Uses. In granting a special permit for either a MMD or MMM, in addition to the general criteria for issuance of a special permit set forth in Section 181.93 of this Ordinance, the Planning Board shall find that the following criteria are met:

- (a) The MMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area already served by an MMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.
- (b) The applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
- (c) The MMD or MMM facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- (d) The MMD applicant has entered into an approved Host Community Agreement (HCA) with the Mayor of the City of Fitchburg.

- (e) The MMD and MMM facility is located at least three hundred (300) feet distant of the following uses within the City limits:
- (1) School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, university, or dormitories
 - (2) Child Care Facility
 - (3) Library
 - (4) Playground
 - (5) Public Park
 - (6) Youth Center
 - (7) Public swimming pool
 - (8) Video arcade facility or
 - (9) Similar facility in which minors commonly congregate
 - (10) Residence, a building containing residences, (including commercial residential uses such as hotels, motels, lodging houses etc.)
- (f) The distance under this section is measured in a straight line from the nearest point of the property line of the protected uses identified in Section 181.644 (b) to the nearest point of the structure of the proposed MMD or MMM.
- (g) The distance requirement may be reduced, but only if:
- (1) The applicant demonstrates that the MMD or MMM would otherwise be effectively prohibited within the municipality.
 - (2) The applicant demonstrates that the MMD or MMM will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004 and the Planning Board determines that a shorter distance, adequately buffered from the uses listed at 181.644(e), will suffice to accomplish the objectives set forth herein.
- (h) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users, and adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility and its impact on neighboring uses.
- (i) The MMD or MMM facility is compliant with requirements of the American Disabilities Act (ADA) Accessibility Guidelines.
- (j) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required measures and restrictions on visibility into the building's interior.

Ordinance
Final Reading

#247-15 (cont)

- (k) The MMD or MMM facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- (l) A MMD or MMM shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within a fully enclosed building or by home deliveries to qualified clients pursuant to applicable state and local regulations.
- (m) Except where it is explicitly stated or otherwise in this Section, a MMD or MMM facility shall conform to the dimensional requirements applicable to non-residential uses within the base and overlaying zoning districts.
- (n) Refuse and service areas are designed to be secure and shielded from abutting use.
- (o) A MMD facility shall not have a gross floor area in excess of five thousand (5,000) square feet.
- (p) The MMD or MMM facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured.
- (q) All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

181.645 Application: In addition to the materials required under Section 181.94 (Site Plan Review) and Section 181.93 (Special Permits) of this Ordinance, the applicant shall submit the following:

- (a) The name and address of each owner of the MMD or MMM facility/operation.
- (b) A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said MMD or MMM facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.
- (c) A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of all such responsible individual persons.
- (d) Evidence that the Applicant has site control and right to use the site for a MMD or MMM facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.

- (e) Detailed site plans that include the following information:
 - (1) Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this Ordinance.
 - (2) Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic.
 - (3) Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes.
 - (4) Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable.
 - (5) Design and appearance of proposed buildings, structures, signage, trash receptacles, screening and landscaping.
 - (6) Adequacy of water supply, surface and subsurface drainage and light.
 - (7) A detailed floor plan of the premises identifying the square footage available and describes the functional areas of the MMD or MMM, including areas for any preparation of MIPs.
 - (8) Details showing all exterior proposed security measures for the MMD or MMM including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- (f) A description of the security measures, including employee security policies, approved by MDPH for the MMD or MMM. An active security system shall be required for all locations and all security measures shall be approved by the Fire and Police Chiefs.
- (g) A traffic study to establish MMD facility impacts at peak demand times.
- (h) A copy of each operating procedure included in 105 CMR 725.105(A).
- (i) A copy of the emergency procedures approved by MDPH for the MMD or MMM.
- (j) A copy of the policies and procedures for patient or personal caregiver home-delivery approved by MDPH for the MMD or MMM.
- (k) A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between MMDs and MMMs approved by MDPH.
- (l) A copy of proposed waste disposal procedures.

Ordinance
Final Reading

#247-15 (cont)

(m) A description of any waivers from MDPH regulations issued for the MMD or MMM.

(1) The Planning Board shall refer copies of the application to the Building Department, Fire Department, Police Department, City Council, Board of Health, Conservation Commission, and the Engineering Division of the Department of Public Works. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 60 days of referral of the application shall be deemed lack of opposition.

(2) After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the Planning Board may act upon such a permit.

(n) Description of Activities. A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities.

(o) Service Area. A map and narrative describing the area proposed to be served by the MMD or MMM and the anticipated number of clients that will be served within that area. This description shall indicate where any other MMD or MMM exist or have been proposed within the expected service area.

181.646 Site Plan Review/Special Permit Conditions for MMDs and MMMs: The Planning Board shall conduct site plan review and shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's MMD or MMMD, the following conditions shall be included in any site plan review or special permit granted under this Ordinance:

(a) Hours of Operation, including dispatch of home deliveries. In no event shall an MMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

(b) MMD and MMM facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.

(c) No outside storage is permitted.

(d) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.

(e) Ventilation – all MMD and MMM facilities shall be ventilated in such a manner that no:

(1) Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and

- (2) No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
- (f) Signage shall be displayed on the exterior of the MMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height.
- (g) Signage and marketing shall conform to the requirements of 181.53 of this Ordinance in addition to MDPH 310 CMR 105.725.105 (L) provisions. Temporary and promotional signage is prohibited.
- (h) The permit holder of a MMD or MMM shall provide to the Building Commissioner, Board of Health and Police Department, the names, telephone numbers and electronic mail addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- (i) The owner or manager shall respond by phone or email within twenty-four (24) hours of contact by a city official concerning their MMD or MMM at the phone number or email address provided to the City as the contact for the business.
- (j) A MMD or MMM facility and affiliated vehicles shall be open to inspection by the Fire Department, Police Department, Building Official and the Board of Health at any time with notice. Said Officials may enter upon any premises used by a MMD or MMM for the purposes of his or her business, ascertain how he or she conducts his or her business and examine all articles stored in or upon said premises, and all books, surveillance and inventories shall be exhibited to any above named whenever a demand shall be made for such exhibition.
- (k) The permit holder shall notify the Building Commissioner, Board of Health, Police Department, Fire Department and City Council in writing within twelve (12) hours following a violation or potential violation of any law or criminal or potential criminal activities or attempts of violation of any law at the MMD or MMM.
- (l) The permit holder of a MMD or MMM shall file a copy of any Incident Report required under MDPH 105 CMR 725.110(F) with the Building Commissioner, Police Chief, and Board of Health within 24 hours of creation. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.
- (m) The permit holder of a MMD or MMM shall file a copy of any summary cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by MDPH or the Division of Administrative Law Appeals, as applicable, regarding the MMD or MMM with the Building Commissioner, Police Chief, Board of Health, Planning Board, City Council and Mayor within 48 hours of receipt.

Ordinance
Final Reading

#247-15 (cont)

- (n) Records of a MMD and MMM must be available for inspection by the Fitchburg Police Chief, Fire Chief, Building Commissioner and Board of Health upon request. In addition to required records and procedures as provided by City of Fitchburg Ordinance, code, or regulation, the MMD and MMM shall also produce written records that are subject to inspection as required in any section of MDPH 105 CMR 725.000, including MDPH 105 CMR 725.105 (G) inventory records of the preceding month (date of the inventory, a summary of the inventory findings, and the names, signature, and titles of the individuals who conducted the inventory), and additional information as may be determined by the Official.
- (o) Permitted MMD and MMM facilities shall file an annual report to the Building Commissioner, Planning Board and City Council no later than January 31st of each year, including a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit. The Special Permit shall be subject to revocation for violations and/or breaches of the conditions of the Special Permit.
- (p) Unless the applicant for a special permit provides in its application evidence of compliance with all applicable laws or regulations related to the licensing of a facility for the dispensing of cultivation of marijuana for medicinal purposes only. A special permit issued under this ordinance may be revoked after hearing upon a finding that the facility is cultivating or dispensing marijuana not being used for medicinal purposes.
- (q) The permit holder shall notify the Building Commissioner, Police Chief, Board of Health, Planning Board, City Council and Mayor in writing within 48 hours of the cessation of operation of the MMD or MMMD, or the expiration or termination of the permit holder's registration with MDPH.
- (r) If the registration for a MMD or MMM has expired or has been revoked, transferred to another controlling entity, or relocated to a different site, a new special permit shall be required prior to issuance of a Certificate of Occupancy.
- (s) No Building Permit or Certificate of Occupancy shall be issued for a MMD or MMM that is not properly registered with the Massachusetts Department of Public Health.
- (t) Special permit/site plan approvals shall be limited to the current applicant and shall lapse if the permit holder ceases operating the MMD or MMM.
- (u) The special permit shall lapse upon the expiration or termination of the applicant's registration by MDPH.
- (v) A MMD or MMM facility shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation. Prior to the issuance of a Building Permit for a MMD or MMM the applicant is required to post with the City Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant 45 days written notice in advance of taking such action. Should the applicant remove all materials, plants, equipment and other paraphernalia to

the satisfaction of the Building Inspector prior to the expiration of the 45 days written notice, said bond shall be returned to the applicant.

181.647 Exemption from Special Permit Requirement: MMMs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval.

181.648 Prohibition Against Nuisances: No use shall be allowed by the MMD or MMM which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

181.649 Severability: The provisions of this Ordinance are severable. If any provision, paragraph, sentence, or clause of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

8) Adding number 14. to D. Industrial Uses in the Table of Principal Uses, to allow cultivation and manufacture of medical marijuana (not retail sales) by special permit in the industrial and limited industrial zoning districts as manufacturing uses, as follows:

Section 181.313 Table of Principal Use Regulations

Principal Use:	RR	RA-1	RA-2	RB	RC	CBD	NBD	C&A	LI	I	MS	FSC
D. Industrial Uses												
14. Medical Marijuana Manufacturing (MMM) - for cultivation and processing of related products only	N	N	N	N	N	N	N	N	PB	PB	N	N

Ordinance was passed to a third and final reading and adopted to be enrolled and ordained and ordered advertised by unanimous vote. 11 members present. Board consists of 11 members. Ordinance was signed by the Mayor January 11, 2016.

Special Permit
Petition #06-2016

PETITIONS

The following Special Permit Petition was referred to a Public Hearing on February 4, 2016:

- 06 -16. SPECIAL PERMIT PETITION: MHRose, Inc. to renovate existing three family home at 76-78 Nashua St. and offer three rental units upon completion. (Existing non-conforming building abandoned or not used for a period of more than two years)

**SPECIAL PERMIT APPLICATION
FROM THE
CITY OF FITCHBURG
CITY COUNCIL**

PERMIT FEE \$300.00

Instructions: Complete each section as required. Submit the original application to the Office of the City Clerk.

1. **APPLICANT NAME:** MHROSE Inc

MAILING ADDRESS OF APPLICANT:

PO Box 172
P.O. Box (if applicable) Street
BERLIN MA 01503
City Zip Code

TELEPHONE NUMBER OF APPLICANT: _____

2. **ADDRESS AND DESCRIPTION OF PROPERTY FOR WHICH THE SPECIAL PERMIT IS BEING REQUESTED:**

76-78 NASHUA ST.
3 FAMILY HOME.

Fitchburg Assessor's Map 68 Block 85 Lot 0

3. **OWNER OF PROPERTY:** MHROSE Inc

MAILING ADDRESS OF OWNER: PO Box 172
BERLIN MA 01503

4. **CONTACT PERSON FOR PROPERTY:** ALAN ROSEBERNY

5. **TELEPHONE NUMBER FOR CONTACT PERSON:** _____

6. DESCRIBE WHAT YOU INTEND TO USE THE PROPERTY FOR:

RENOVATE EXISTING 3 FAMILY HOME.
OFFER 3 RENTAL UNITS UPON
COMPLETION

7. TOTAL SQUARE FOOTAGE OF PROPOSED USE: 5,600

8. TOTAL PARKING REQUIRED: 6 SPACES

9. TOTAL PARKING PROVIDED: 6 SPACES

10. MUNICIPAL SERVICES:

Please check as appropriate:

A. Project will tie in to City Sewer System.	<u>X</u> Yes	<u> </u> No
B. Project will tie in to City Water Service	<u>X</u> Yes	<u> </u> No
C. Project will tie in to Storm Drainage System	<u> </u> Yes	<u>X</u> No

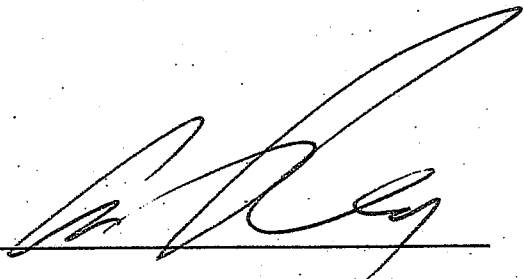
11. Is this a Special Permit for a Nursing Home, Truck/Bus Terminal, Research & Testing, Publishing and Printing, Light Manufacturing or Manufacturing?

 Yes X
No

12. If YES, a Plan prepared by a Registered Professional Land Surveyor or Regular Professional Engineer in accordance with Section 2 of the Rules and Regulations governing Special Permits must be attached.

Special Permit
Petition #06-2016
(cont)

14. SIGNATURE OF APPLICANT:



PRINT NAME OF APPLICANT:

ALAN ROSEBERRY

DATE:

12/31/15

Please note: This application will not be accepted unless ALL requirements stated in the letter of determination by the Building Commissioner have been met.

DATE RECEIVED BY CITY CLERK

\$

APPLICATION FEE RECEIVED

City of Fitchburg, January 7, 2016

Special Permit
Petition #06-2016
(cont)



Fitchburg, Massachusetts
Office of the
Building Commissioner

ROBERT LANCIANI
Building Commissioner

JOHN J. MORAN SR.
Local Building Inspector

JOHN MORREALE
Local Building Inspector

KYLE RIDLEY
Inspector of Wires

WAYNE LITTLE
Plumbing/Gas Inspector

December 22, 2015

MHRose Inc
PO Box 172
Berlin, MA 01503

RE: Form of Intent for 76-78 Nashua St, Map 68 Block 85 Lot 0

Dear Sirs;

I have reviewed your request for a zoning determination and my findings are as follows:

1. Land and building at 76-78 Nashua St, Map 68 Block 85 Lot 0 are located in a Residential C District (Zoning Map of the City of Fitchburg and Chapter 181, Section 181.23 of the General Ordinances of Fitchburg as amended).
2. The existing house is a nonconforming building that has been abandoned or not used for a period of more than two years. The building has lost its protected status and is now subject to the provisions of the zoning ordinance, unless a special permit is issued pursuant to Section 181.3561. The required setbacks for RC are 25 front, 15 side, and 30 rear. **Applications for a Special Permit from the City Council are available at the City Clerk's office, 166 Boulder Drive.**
- 3 All renovations done to the existing building will require plans and specifications to show that code compliance is met under the Massachusetts State Building Code eighth edition before a building permit can be issued.

Very truly yours,

Robert Lanciani
Building Commissioner

City Hall, 166 Boulder Drive, Fitchburg, MA 01420 (978) 829-1880 Fax (978) 829-1963

The meeting adjourned at 8:02 P.M.

Anna M. Farrell, Clerk